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6 IN THE UNITED STATES DISTRICT COURT

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10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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VANCE S. ELLIOTT,

No. C 07-80071 WHA

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Plaintiff,

13 **ORDER DENYING LEAVE
14 TO PROCEED**

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THE PRESIDENT AND DIRECTORS OF
16 THE VA HOSPITAL OF FORT MILEY,

17 Defendant.

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19 By order filed February 15, 2006, Judge Marilyn Hall Patel of this district deemed
20 plaintiff a vexatious litigant (No. C 04-1600 MHP Doc. No. 36). He is required to obtain leave
21 of court before filing any new complaint related to claims in that action. Leave of court is
22 **DENIED** due to the Court's inability to determine whether the claims asserted in connection with
23 the instant action are the subject of or are related to the claims previously asserted by plaintiff.

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25 To the extent he sues under the Federal Tort Claims Act, plaintiff also cannot state a
26 claim. In the instant action, plaintiff appended a notice dated February 28, 2007, from the
27 Department of Veterans Affairs Regional Counsel. That notice indicated that its investigation
28 into the allegations that plaintiff was harmed by the negligence of VA employees was without
merit. The notice advised him of his right to sue under the FTCA within six months of the
notice. Apparently plaintiff has attempted to do so with this suit. Under the FTCA, only the
United States is a proper defendant. “[I]ndividual agencies of the United States may not be
sued.” *Allen v. Veterans Admin.*, 749 F.2d 1386, 1388 (9th Cir. 1984). Here plaintiff names as

1 a defendant "The President and Directors of the VA Hospital of Fort Miley." Plaintiff cannot
2 sustain an action under the FTCA against this person. Plaintiff's case is dismissed for this
3 reason as well.

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5 **IT IS SO ORDERED.**

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7 Dated: March 16, 2007.

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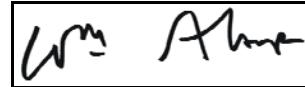
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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE